

II. REMARKS

A. Status of the Claims

Claims 1-4 were originally filed with the case. All claims are rejected in the Office Action mailed December 11, 2008. Claim 1 is amended herein to clarify the subject matter of the claims. No claims are added or cancelled herein. Therefore, claims 1-4 remain pending.

B. The Claims are Not Anticipated by Lang

The Action rejects claims 1-4 under §102(b) as being anticipated by Lang (US Patent No. 6,582,721). Lang is said to teach the use of a dietary supplement of cobeadlets, copper, vitamin C, vitamin E and Vitamin A in the form of beta-carotene, lutein and zeaxanthin, and mineral zinc. Applicants respectfully traverse.

The cobeadlets described in Lang contain one or more xanthophyll(s), one or more carotene(s)/retinoid(s), one or more antioxidant(s) and one or more solidifying agent(s). Lang further describes dietary supplements containing those co-beadlets. The dietary supplement of the present invention comprises cobeadlets containing Vitamin E and active carotenoid in the form of Vitamin A, lutein and/or zeaxanthin. The total amount of Vitamin E in the cobeadlets and in the dietary supplement of the present invention is approximately 0.5% to 25% by weight. The total amount of active carotenoid in the cobeadlets and in the dietary supplement of the present invention is approximately 10% to 30% by weight. These amounts of Vitamin E and carotenoid include Vitamin E and carotenoid that is within the cobeadlets and that is in the dietary supplement, but not within the cobeadlets. The dietary supplement of the present

invention further contains approximately 10% to 30% Vitamin C, approximately 0.03% to 0.3% copper, and approximately 0.2% to 4% zinc. The Vitamin C, copper and zinc are not contained with the cobeadlets used in the dietary supplements of the invention. The particular combinations and amounts of ingredients contained in the dietary supplements of the present invention are not described within Lang.

For a prior art reference to render a claim anticipated, that reference must set forth every element in the claim, either expressly or inherently. *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051 (Fed. Cir. 1987) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983)). In other words, to support a rejection under section 102, a reference must show *all* features of the rejected claim(s). *Minnesota Mining & Mfg. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1569, 24 USPQ2d 1321 (Fed. Cir. 1992). The Federal Circuit has stated that "absence of a claim element from a prior art reference negates anticipation." *Atlas Powder Co. v. E.I. du Pont de Nemours & Co.*, 224 U.S.P.Q. 409 (Fed. Cir. 1984). Since Lang lacks a teaching of certain features of the present invention, it cannot be said to anticipate the claimed invention.

In light of the foregoing arguments, Applicant respectfully requests that the anticipation rejection based on Lang be withdrawn.

C. Conclusion

This is submitted to be a complete response to the outstanding Action. Based on the foregoing arguments, the claims are believed to be in condition for allowance; a notice of allowability is therefore respectfully requested.

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The Examiner is invited to contact the undersigned attorney at (817) 551-4321 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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